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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,635	02/07/2002	Alvaro Laguna	40152.0100	2345

34018 7590 02/07/2005

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EXAMINER

BUI, VY Q

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,635

Applicant(s)

LAGUNA, ALVARO

Examiner

Vy Q. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-33 and 42-50 is/are pending in the application.
- 4a) Of the above claim(s) 27-31, 33 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-26, 32, 42-47, 49-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24-26, 32, 42-45 and 50 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over VARDI et al. –6,210,429.

Claims 24-26, 32, 42-45 and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by VARDI-'429 (Figs. 1-9) shows main member/stent 12, side-branch member/stent 15 integrally connected to main member 12 in a deployment configuration (see Fig. 6g, for example), delivery system including main guidewire 20, side-branch guidewire 36, main balloon catheter 48 (Fig. 4), side-branch balloon catheter 54 (Fig. 5). Main member 12 and side-branch member 15 inherently are biocompatible, circumferentially distensible with minimal foreshortening and low recoil, and kink resistant so as to support the branch blood vessel 7-8. Notice that in a deployment configuration, side branch member 15 and main member 12 are integrally connected because main member 12 and side branch member 15 each is an essential or a necessary constituent/element of the complete device.

Alternatively, It would have been obvious to one having ordinary skill in the art at the time the invention was made to make main member 12 and branch side member 15 integrally

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connected or bonded, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Howard V. Detroit Stove Works, 150 U.S. 164 (193).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 46-47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over VARDI et al. -6,210,429 in view of WISSELINK-5,984,955.

As to claims 46-47 and 49, VARDI-'429 does not disclose a graft in combination with main member 12 or side-branch member 15. Stent is well known for self-anchoring to a location in a blood vessel wall. A graft as recited in the claims is well known for preventing blood leaking outwardly to an aneurysm sac of a blood vessel and it is well known in the art to have a stent-graft combination implanted in an aneurysm location of a blood vessel. For example, WISSELINK-'955 discloses stent graft combination having main stent-graft member 12&18 and at least one stent-graft side branch member 16&20 for use in an aneurysm location. In view of WISSELINK-'955, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify VARDI stent to a stent-graft combination as recited in the claims for use in an aneurysm location of a blood vessel.

Response to Arguments

Applicant's arguments filed 11/08/2004 have been fully considered but they are not persuasive.

The Applicant mainly argued that:

1. Main member 12 and side branch member 15 of VARDI et al-'429 are not integrally connected (Remarks: page 7, second paragraph).
2. VARDI et al-'429 stent is not necessarily biocompatible, circumferential distensible with minimal forshortening, has low recoil, or is kink resistant (Remarks: page 7, third paragraph to page 8, first 3 lines).
3. No reference is presented to support that stent-graft combinations are well-known to modify VARDI et al-'429 device to a device as claimed (Remarks: page 8, second paragraph).

Please see below corresponding responses from the Examiner:

1. Please see above rejection (section ***Claim Rejections - 35 USC § 102/103***).
2. It is very clearly to one of ordinary skill in the art to recognize that VARDI et al-'429 device must be biocompatible (for implanting in a patient body) and distensible (for radial expansion caused by balloons). In addition, one of ordinary skill in the art must recognize that stents in general must has some degree of forshortening or recoil or kink resistance, therefore, VARDI et al-'429 stent also has some degree of forshortening or recoil or kink resistance. Notice that minimal forshortening, low recoil and kink resistance as recited in the claims are relative terms and these terms do not set forth any specific metes and bounds to distinguish the present invention over VARDI et al-'429 device.
3. Please see above rejection (section ***Claim Rejections - 35 USC § 103***).

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Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 703-306-3420. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T Nguyen can be reached on 703-308-2158. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


02/04/2005
Vy Q. Bui
Primary Examiner
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